TRANSFORM
THE FUTURE

Intercarrier Compensation Reform

November 29, 2010

ICC Regime Must Support Policy Goals

- Accomplish National Broadband Plan goals with policies that shift focus from circuit-switched network to broadband infrastructure
- Eliminate implicit subsidies from rates and make explicit USF distributions for broadband and IP network investment
- Reduce arbitrage opportunities by establishing unified default rate for all carriers and jurisdictions of traffic
  - Bill-and-keep should only be required where traffic is “in balance;” (meaning of “in balance” should be developed as part of NPRM)
- Confirm section 251 requires ILECs to offer interconnection, including IP interconnection, “at any technically feasible point”
  - Intercarrier compensation regime applies to carrier-to-carrier interconnection arrangements, not to unbundling requirements for last mile facilities or to classification of retail-level services

XO Proposal - IP-based Interconnection

- Require every carrier to provide IP-based carrier-to-carrier interconnection (directly or indirectly) within 5 years, regardless of technology used to provide services to end users
  - IP exchange of carrier-to-carrier traffic
  - Conversion to TDM cannot be required by terminating carrier
  - Format of carrier-to-end user exchange determined by serving carrier
  - Under current peering arrangements, any carrier (including small/rural LECs) that offers ISP service already connects to IP cloud to exchange Internet traffic
- Consensus-based technical standards should be developed to facilitate efficient IP routing (i.e., ENUM database) and points of interconnection (POIs)

5- Year Transition

- Transition should create proper financial incentives to invest in IP-based networks by immediately reducing rates for using IP, rather than TDM, technology
- Terminating carriers may not require N-1 carrier to convert traffic to a particular format
- For N-1 carriers that exchange traffic in TDM format, terminating rate initially capped at current access or reciprocal compensation rates based on jurisdiction
  - Move toward unified TDM rate by first lowering intrastate access rates to interstate rates and then to reciprocal compensation rates
- For N-1 carriers that exchange traffic in IP format:
  - If traffic is "*in balance*," default is bill and keep
  - If traffic is not "*in balance*," terminating rate immediately capped at lower default IP termination rate set by FCC

After Transition

- All N-1 carriers must exchange traffic in IP format
  - N-1 carriers may negotiate arrangements with terminating carriers or 3rd party to convert traffic to IP and/or transport traffic to POI at market-based rates
- Encourage individually negotiated IP interconnection and traffic exchange arrangements
- Absent an agreement, default standards apply:
  - Eliminate LATA and other jurisdictional traffic boundaries
  - Establish maximum of one default POI in each state (state POI may be eliminated if carrier interconnects at regional industry standard POI)
  - Each carrier pays its own costs to get to the POI
  - Default IP termination rate applies

Rural Exemption Is Root Problem

- Access Stimulation Arbitrage occurs when rate-of-return (or benchmarking) LEC sets termination rates based on low historical costs and demand *AND THEN* does not decrease termination rates when traffic volumes increase significantly
- This exploitation of rural exemption is an unjust and unreasonable practice that violates §§ 201 & 202
  - ***NOT*** Traffic imbalances or high volumes (which result from legitimate business plans and customers)
  - ***NOT*** Revenue sharing (which broadly encompasses valid marketing arrangements and customer discounts)
  - ***NOT*** Free chat line or other services provided to end users (which benefit consumers)

Access Stimulation Arbitrage: Interim Remedy

- Policy rationale for rural exemption was to subsidize costs for rate-of-return carriers with lower traffic volumes typically due to fewer customers per switch
- Interim remedy must be narrowly tailored and reasonably related to the problem by focusing on practices that advantage one carrier over another, rather than practices that are not in and of themselves unreasonable
  - FCC should establish traffic volume threshold, above which carriers cannot claim rural exemption or benchmark to rural rates
  - Carriers claiming rural exemption (or benchmarking to rural rates) should certify quarterly that they continue to qualify for exemption
  - If carrier does not qualify for exemption based on traffic volumes, carrier must file new tariff within 30 days with rates capped at those of competing non-rural ILEC in the state